

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARK E. HANSEN)	
Claimant)	
)	
VS.)	
)	
MEIER'S READY MIX, INC.)	
Respondent)	Docket Nos. 204,466 &
)	204,467
AND)	
)	
KS. BLDG. INDUSTRY WCF)	
Insurance Carrier)	

ORDER

On the 13th day of May, 2002, the claimant filed a handwritten document designated a request for reconsideration or appeal of an Order entered by the Board on April 25, 2002. The claimant, Mark E. Hansen, requested the Board to reconsider and modify its earlier Order.

The respondent objected to the request and noted there is no statutory authority in the Workers Compensation Act for Board reconsideration of its final decision in a case absent remand from an appellate court.

Because it was unclear whether claimant was still represented by counsel, Board staff contacted claimant and his counsel of record who had not formally withdrawn. Claimant was advised that appeal from a final order of the Board is perfected by filing an appeal with the court of appeals within 30 days of the date of the final Board order.

Turning to the request for reconsideration, the Board finds there is no statutory procedure whereby a final order which has been formally made and entered in a workers compensation case may be modified by the Board, such judgement being subject to modification only under K.S.A. 44-556 upon appellate review.

While this specific issue has not been raised with regard to the Board, this matter was considered by the Kansas Supreme Court in Norcross v. Pickrell Drilling Co., 202 Kan. 524, 449 P.2d 569, (1969), with regard to appeals from district court decisions in workers compensation matters. In Norcross the district court, in considering a motion by the

respondent to postpone entry of judgement, issued a second judgement and order dated subsequent to the original order. The Supreme Court held the original order, upon becoming final, could not thereafter be modified by the district court except in a situation where a correction of the record through Nunc Pro Tunc would be required.

The appeal of workers compensation matters to the Board is de novo and follows similar procedures as were formerly followed in the appeals to district court from the Workers Compensation Director's orders. The lack of statutory authority for reconsideration procedure before the Board is similar to the lack of statutory authority for reconsideration before the district court. The rules set out in Norcross appear applicable in this situation.

The Board finds claimant's request for reconsideration is denied as no statutory authority for such procedure has been created by the Legislature.

AWARD

WHEREFORE, it is the finding, decision and order of the Board that the Request for Reconsideration filed by the claimant shall be and hereby is denied, and the Board's Order of April 25, 2002, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of May, 2002.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Mark E. Hansen, Pro Se Claimant
Michael Kelley, Attorney for Claimant
Matthew S. Crowley, Attorney for Respondent
Julie A.N. Sample, Administrative Law Judge
Philip S. Harness, Workers Compensation Director